



Texas Department of Insurance
Division of Workers' Compensation
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BENEFIT REVIEW CONFERENCE (BRC) INFORMATION FOR INSURANCE CARRIER

AVERAGE WEEKLY WAGE ISSUES: An average weekly wage issue is when the insurance carrier, the injured worker or their beneficiaries dispute the wages or method used to calculate an injured worker's average weekly wage. Income and death benefits are based on an injured worker's average weekly wage. A party should be prepared to discuss the following information at a BRC on an income benefit dispute.

Definition of Terms

"Wages" are defined under Texas Labor Code Ann. §401.011(43).

"Bona Fide Offers of Employment" is provided under Rule §129.6.

AVERAGE WEEKLY WAGE RULES:

"General Provision" is provided under Rule §128.1.

"Full Time Employees" is provided under Rule §128.3.

"Part Time Employees" is provided under Rule §128.4.

"Seasonal Employees" is provided under Rule §128.5.

"Minors, Apprentices, Trainees, or Students" is provided under Rule §128.6.

"School District Employees" is provided under Rule §128.7.

"Employer's Wage Statement" is provided under Rule §120.3.

"Employee's Multiple Employment Wage Statement" is provided under Rule §122.5.

"Pecuniary Wages" are defined under Rule §126.1(3).

"Non-Pecuniary Wages" are defined under Rule §126.1(2).

"Carrier Presumption of Employee's Average Weekly Wage" is provided under §128.2.

Division Forms

- DWC-21 or PLN-11, Carrier's Notice of Disputed Issue(s) and Refusal to Pay Benefits.
- DWC-3, Employer's Wage Statement.
- DWC-3SD, Employer's Wage Statement for School Districts, if applicable.
- DWC-3ME, Employee's Multiple Employment Wage Statement, if applicable.
- DWC-1, "Employer's First Report of Injury or Illness" (paper copy if filed electronically).
- DWC-73, "Work Status Report" – showing a release to return to work with restrictions to support a Bona Fide Offer of Employment, if any.

Additional Information

- Canceled checks or pay-stubs from the employer or other employers if the injured worker had more than one job for the 13-weeks prior to the injury.
- Any information that will support the amount of earnings and/or fringe benefits provided by the employer(s). (i.e., W2 form, payroll records, etc.)
- Bona Fide Offer of Employment – usually in written form from the employer to the injured worker identifying the position, work restrictions and wages offered during a period of limited or restricted employment (if any).

Exchange of Information

- Must be exchanged with DWC and other parties per Rule 141.4.
- Must be exchanged no later than 14 days prior to a BRC (5 days if BRC was expedited).
- Bring information that is obtained **after** the exchange deadline to the conference in sufficient copies for filing and exchanging at the conference.